

Attorney Docket No.: KBI-0017
Inventors: Ranganathan, Natarajan
Serial No.: 10/676,622
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REMARKS

Claims 1-7 are pending in this application. The pending claims have been subjected to a Restriction Requirement under 35 U.S.C. §121 as follows:

Group I, claims 1-3, drawn to a composition; and

Group II, claims 4-7, drawn to a method for detoxifying a subject.

The Examiner acknowledges that Inventions I and II are related as product and process of use; however, they are distinct because the method for detoxifying a subject could be practiced with other materially different products such as fruit juice. As such, it is suggested that searching the inventions of Groups I and II together would impose a serious search burden on the Examiner as the search for the composition and the method of the instant Disclosure are not coextensive. The Examiner acknowledges that were Applicant to elect claims directed to the product, and the product claim were subsequently allowed, withdrawn process claims that depend from or otherwise include all limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP §821.04. Applicant is required to elect one of the Groups to be examined. Applicant respectfully disagrees and traverses this restriction requirement.

MPEP §803 is quite clear; for a proper restriction requirement, it must be shown (1) that the inventions are independent or distinct AND (2) that there would be a serious burden on the Examiner if the restriction is not required. MPEP 802.01 defines "distinct" to mean that the "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice,

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process and product made there, etc., but are capable of separate manufacture, use, or sale, as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER."

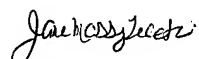
Applicant respectfully disagrees with the Examiner's suggestion that the inventions of Groups I and II are not co-extensive. The selected bacteria of Group I claims have the distinct technical feature of being able to convert nitrogenous waste into non-toxic compounds *in vivo*. Thus, a search of the relevant prior art for selected bacteria which meet this criteria will inherently reveal references that disclose the use of such bacteria *in vivo* to inhibit build up of toxins and metabolic wastes and overgrowth of undesirable bacteria. As the phenotypic criteria of the selected bacteria of Group I claims is co-extensive with the use of such bacteria in the methods of Group II claims, no serious burden would be incurred by the Examiner in searching and examining together claims of Groups I and II. Therefore, reconsideration of this restriction requirement is respectfully requested.

However, in an earnest effort to be completely responsive, Applicant hereby elects to prosecute Group I, claims 1-3, drawn

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to a composition, classified in class 424, subclass 93.4, with
traverse.

Respectfully submitted,



Jane Massey Licata
Registration No. 37,257

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Licata & Tyrrell P.C.
66 E. Main Street
Marlton, New Jersey 08053

(856) 810-1515